

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TWD - Appeal Petition from Sri Addala Nageswara Rao S/o Late Sri Venkata Rao, Occ: Officer in SBI., R/o Hanumakonda, Warangal District filed under Section 7(2)&(4) of Act 16 of 1993, against the proceedings dated 20.10.2005 of the District Collector, East Godavari District–Appeal rejected – Orders – Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 70

Dated:19-6-2009
Read the following:

- 1.Proceedings of the Collector, East Godavari District Ref.No. C5(M) 5925/98, dated 20.10.2005.
- 2.Appeal Petition from Sri Addala Nageswara Rao S/o Late Sri Venkata Rao, Occ: Officer in SBI., R/o Hanumakonda, dated 14.12.05 before M(SW &TW), filed through his advocate.
3. Govt.Memo No. 10530/CV.2/2005-1, dated 5.1.2006
4. Letter from the District Collector, East Godavari, No. Ref.C5(M)/980/2006, dated 20.9.2006.
5. Govt.Memo No. 10530/CV.2/2005-6, dated 19.3.2008.

ORDER:

Sri Addala Nageswara Rao S/o late Sri Venkata Rao, Occ: Officer in SBI., filed an appeal petition before Govt. against the Proceedings dated 20.10.2005 of the District Collector, East Godavari, for cancellation of his ST Konda Kapu caste certificate and submitted his grounds which are as follows:

- i. The impugned order of the Collector is erroneous, contrary to law, weight of evidence and suffer from jurisdictional errors.
- ii. The Collector ought not to have acted basing on the recommendations of the District Level Scrutiny Committee for canceling the community certificate of the appellant in the light of the amendment brought to the Rules in respect of tribals.
- iii. The respondent failed to note that the jurisdiction of the District Level Scrutiny Committee for enquiring into the correctness of any community certificate obtained by tribals has been taken away by the Government by bringing an additional Sub-Rule 10 to Rule 9 of the Rules and conferring the same on the Commissioner of Tribal Welfare through G.O.Ms.No.79, SW (CV.2) Department, dated 24.7.2002 with effect from 2.8.2002.
- iv. The respondent erred in passing an exparte order of cancellation of the caste certificate of the appellant and the appellant ought to have been afforded a full opportunity, before passing the impugned order.
- v. The respondent ought not to have entertained the enquiry after a long lapse of time and he should have seen that the appellant has adduced ample evidence in the open enquiry conducted by the members of the District Level Scrutiny Committee.
- vi. The other reasons given by the Collector in support of the impugned order are baseless and unsustainable.

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2) In Govt.Memo 3rd read above, the District Collector, East Godavari was requested to furnish parawise remarks along with connected original records of the case. The same has been furnished by the District Collector, East Godavari. The remarks of the Collector, East Godavari are as given below:

- i. The orders of the District Collector are in accordance with the law after giving due opportunities to the petitioner.
- ii. The Contention of the petitioner is not correct. As per the directions of the Hon'ble High Court the matter was referred to the DLSC. The Committee opined that the petitioner failed to prove his ST status, though ample time and opportunity was given to him and recommended to the District Collector, for cancellation of Konda Kapu (ST) caste certificate. A final notice was issued to the individual to attend before the Collector to file any objections on the observations made by the District Level Scrutiny Committee. The respondent attended the Court and filed written arguments and could not file any documentary evidence to prove his case as Kondakapu. In view of the observations and recommendations of the DLSC. the Collector, cancelled the fraudulent "Kondakapu" caste certificates obtained by the individual.
- iii. As per the G.O.Ms.No.79, SW (CV.2) Dept., passed by the Govt. sub rule "10" is added to the sub rule (9) of rule 9 the Act 16/93 that in respect of tribals, the Commissioner of Tribal Welfare, either suo-motto or on a written complaint by any person or on request made by an employer/educational institution /appointing authority shall enquire into the correctness of any community, nativity and date of birth certificate already issued and if it is found that the said certificate is obtained fraudulently, shall refer the case to concerned Collector or the Govt. for its cancellation as per the procedure laid down Section 6 of the Act. Accordingly on receipt of report from the Mandal Revenue Officer, Addateegala, and the District Tribal Welfare Officer, Rampachodavaram, the Collector referred the case to the DLSC. for enquiry and its findings.
- iv. The contention of the petitioner is not correct. A final notice was issued to the individual to attend before the Collector to file any objections on the observations made by the DLSC. The respondent attended the Court and filed written arguments and could not file any documentary evidence to prove his case as Kondakapu. In view of the observations and recommendations of the DLSC the District Collector, cancelled the fraudulent "kondakapu" caste certificates obtained by the individual.
- v. The contention of the petitioner is not correct. The advocate for the petitioner attended before the DLSC. and requested to grant so many adjournments for filing evidence in support of his clients caste claim hence the enquiry took long lapse of time.
- vi. The contention of the petitioner is not correct. The Collector observed marital relations, genealogical information, birth and death entries, land records of the individual, enquiry reports of the District Tribal Welfare Officer, the Revenue Divisional Officer, Rampachodavaram and other material available and issued notice to attend before the Collector to file any documentary evidence to prove the case of the individual as Kondakapu. But the individual has failed to file any recorded evidence to prove his caste is Kondakapu though the ample opportunity was given to him. The DLSC. examined all the material evidence available as per rules and came to a conclusion that the petitioner does not belong to Kondakapu (ST) and gave its findings after thorough enquiry. In view of the above, the Collector, East Godavari has conducted enquiry as per

the act by giving sufficient opportunity and orders were passed canceling the caste certificate of the petitioner

3). The case was posted for personal hearing 23.7.2007. The appellant and his counsel was absent. Further was posted on 16.8.2007. The appellant and his parents were directed to attend the next hearing. On 31.8.2007 both the appellant and his counsel attended and the case was adjourned. Further on 20.11.2007 the Counsel for appellant attended and the appellant was reported to have met with an accident and finally heard the case on 27.3.2008. On careful examination of the grounds for the appeal, Proceedings of the District Collector, East Godavari, enquiry reports, documentary and other evidences and other material on file, it is found that:

1. Sri Addala Venkata Ratnam, own brother of the appellant deposed before the MRO. Samalkota that his father late Sri Venkata Rao came to Addateegala (V) from Athreyapuram during his (father's) childhood. This clearly shows that the appellant's father migrated to Addateegala from Athreyapuram, a plain area village where there were no Kondakapu community tribal people.
2. The appellant deposed that both his biological mother Sathyavathi and his foster mother Addla Venkamma belongs to Kondareddy community. But his biological mother deposed before the MRO., Y.Ramavaram on 23.9.1988 that Addla Venkamma belongs to Kondakapu community.
3. Both the appellant and his biological mother Sathyavathi deposed that Sathyavathi's father Jartha Bodaiah and mother Jartha Chellayamma belonged to Kondareddy community and were natives of Gurthedu (V). But during the enquiry by the MRO. Y.Ramavaram through the village servants of Gurthedu village, the Sarpanch of Gurthedu and other villagers who belong to Kondareddy community deposed that the people by names Jartha Bodaiah and his wife Chellayamma and their daughter Sathavathi said to be of Kondareddy community were never residents of Gurthedu village and they do not know such people. From this it is clear that the appellant and his biological mother have gave false statements.
4. The appellant deposed before the MRO., Y.Ramavaram that the name of his biological mother's brother is Jartha Venkata Rathnam R/o Chintakarrapalem. But his biological mother deposed that she had a brother by name Jartha Lachaiah. But the Kondareddy community people of Chintakarrapalem deposed that there was no person by name Jartha Venkata Rathnam in their village. This also clearly shows that the appellant and his mother are giving false statements.
5. In the open enquiry conducted by the DTWO., and the RDO. R.C.Varam on 3.1.2001 in the presence of the appellant and the statements recorded from the people as requested by the appellant it is found that;
 - a) the biological mother of the appellant belongs to 'Kapu' caste, her father's name is Gadi Pentaiah, residents of Kovvuru of West Godavari District.
 - b) The appellant's statement requesting to record the statements of villagers of Addateegala about his adoption by Smt. Venkamma of Kondareddy community and the villagers' statement in support of this adoption clearly shows that those villagers were brought for the enquiry by the appellant himself with pre-educated bent of mind. But in doing so they stated his biological mother's name as Gadi Lakshamma. But the appellant's biological mother's name as stated by him is Sathyavathi or Satyavatamma

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with surname Jartha belonging to Kondareddy community which was also proved false by the statements of Gurthedu people before the MRO., Y.Ramavaram.

6. The affidavit statements of all the people produced by the appellant are also not reliable because it clearly appears that those affidavit statements are prepared by the appellant and the people were managed or induced to sign on them.
7. The request of the appellant to treat him as Kondakapu ST or Kondareddy as his father was Kondakapu and his adoptive mother was Kondareddy also creates doubt about the caste of his biological mother. Because he knows well that his biological mother is a non-tribal, he is taking that he was adopted by a Kondareddi mother. When his father kept this adoptive mother (as per the statement of his biological mother) there is no need for adopting his own son by this 2nd wife. It is pertinent to mention here that as per section 2(2) of the Hindu Adoption and Maintenance Act, 1956, "nothing contained in this Act shall apply to the members of Scheduled Tribes within the meaning of clause (25) of Article 366 of the Constitution unless the Central Government by Notification in the Official Gazette otherwise directs".
8. It is also clear that the appellant and the people who have given affidavits/statements in support of his claim are silent about the original place of birth of the father of the appellant but simply states that they were residents of Addateegala and even go to the extent of stating that the appellant's father/family are residents of Agency area from the time of Alluri Seetharamaraju's revolt. In the absence of any evidence, it is clear that this is only a baseless statement and all people who were or are residents of Agency area are not Scheduled Tribes.
9. The appellant during the enquiry by the District Tribal Welfare Officer, RC Varam on 3.1.2001, requested in writing to record the statement of one Sri Addala Rambab R/o Bornagudem (V), Rajavommangi (M) because Addala Surname people of that village also belongs to Kondakapu community. Sri Addala Rambabu S/o Sathyam R/o Bornagudem (V) deposed in his statement that his father used to say that father of the appellant and his father are paternal cousins and he does not know any other details. At his age of 22 years when he went to Duscharthi (V), he met the appellant. Above Rambabu did not state that the appellant or he himself belong to Kondakapu community. Thus, the person whom the appellant stated as belong to Kondkapu community, did not state the same. Therefore, this statement recorded as per request of the appellant does not support his claim as belonging to Kondakapu community.
10. During the enquiry by the MRO. Addateegala one Sri Thota Suryaprakasa Rao S/o Narayana Murthy aged 65 years R/o Addateegala (V) deposed in his statement recorded by the MRO. that he belongs to Kapu caste. His wife is Gagarathnam D/o GAdi Suranna. His wife's mother is Addala Ganamma and the appellant's father Sri Addala Venkata Rao is the brother of his wife's mother i.e. his wife's maternal uncle. Sri Addala Venkata Rao; belongs to 'Kapu' caste and he married Smt. Addala Sathayavathi D/o Gadi Sriramulu who also belongs to Kapu caste and to Kovvur village. Sri Addala Naeswara Rao (the appellant) also married a woman of Kapu caste. Thus, the relative (father's sister's, son-in-law) of the appellant stated that the appellant and his parents belong to Kapu caste and the appellant also married a Kapu woman. The deponent also stated that Sri Addala Venkata Rao, father of the appellant belongs to Kapu caste but got his caste recorded as Manyam Kapu (meaning Kondakapu).

- 11, During the above enquiry by the MRO. Addateegala, Sri Dharmaraju, VAO of Addateegala informed in his report dated 2.11.2000, that Addala Venkata Rao (father of the appellant), Addala Muneyya (Appellant's father's brother) and their children all belong to Kapu caste and got their caste recorded as 'Manyam Kapu' (meaning Kondakapu) for the purpose of availing reservations.
 12. In the Birth Registers of Addateegala (V) relating to the years 1942 and 1944, the caste of children of Addala Muneyya (appellant's father's brother) was recorded as Kapu.
 13. In the land records from the Sub-Registrar's office, Prathipadu, relating to the years 1944 to 1952 the caste of the people with the surname Addala was recorded as Telaga or Kapu. The appellant him-self deposed before the MRO., Addateegala in his own written statement dated 3.11.2000 that his relatives with Addala surname are there in Rajavommangi and Prathipadu Mandals and they got caste certificate as Kondakapu or Kondadora.
 14. In view of the above, it is clearly established that the appellant belong to Kapu caste but not to Kondakapu ST. Hence the grounds for appeal are not tenable because the impugned order is issued as per law.
 15. The contention of the appellant that as per Sub-Rule (1) to Rule 9 (Amendment issued in G.O.Ms.No.79, SW (CV.2) Dept., dated 24.7.2002) the jurisdiction of conducting enquiry by DLSC. in case of tribals is taken away by Govt. and conferring the same on CTW is absolutely not correct. This amendment is only additionally and the DLSC. has jurisdiction to enquire into claims of such ST status.
 16. The District Collector, East Godavari has not passed an ex parte order. Ample opportunity was given to the appellant through several show cause notices from 20.12.2002 to 4.8.2005 (about 3 years) but the appellant failed to prove his claim through reliable evidences.
- 4). Therefore, in exercise of the powers conferred under Section 7 of Act 16 of 1993, and Rules made thereunder, the appeal petition filed by Sri Addala Nageswara Rao S/o Late Sri Venkata Rao, Occ: Officer in SBI, is hereby rejected, upholding the Proceeding of the District Collector, East Godavari No. Ref.No. C5(M) 5925/98, dated 20.10.2005. The stay granted in reference 3rd read above are hereby rejected.
- 5). The records received from the District Collector, East Godavari, vide reference 4th read above are herewith returned to him and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
PRINCIPAL SECRETARY TO GOVT.

To

The District Collector, East Godavari (WE) Original record file bearing No. C5/
M/5925/ 98, dated 20.10.2005 containing pages 962 two volumes
Sri Addala Nageswara Rao S/o Late Sri Venkata Rao,
Occ: Officer in SBI., R/o Hanumakona,
Warangal District.

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Copy to:

The PS to M(TW & RIAD)

The PS to Pri.Secretary(TW)

The General Manager (operations),

SBI., Head Office, Bank Street,

Koti, Hyderabad.

Sf/Sc.

//Forwarded::By Order//

SECTION OFFICER.